

SCANNED

DATE: 9-17-04

BY: CMS

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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2004 SEP 15 P 1:26

HEARTS ON FIRE COMPANY, LLC,

Plaintiff,

v.

GOLDENMINE.COM, INC.,

Defendant.

U.S. DISTRICT COURT
DISTRICT OF MASS.

CIVIL ACTION NO. 04-11650-PBS

Consent Judgment and Permanent Injunction

In order to effectuate and implement the Settlement Agreement by and between the parties to this action (a copy of which is attached as Exhibit A; hereinafter referred to as "Settlement Agreement") and the parties having submitted themselves to the Court's jurisdiction (in the case of Defendant GoldenMine.com, Inc., for the purposes of effecting this Consent Judgment and Permanent Injunction, including with respect to paragraph 8 below, and settlement of litigation only); and the Court having found that entry of this Consent Judgment and Permanent Injunction is necessary and proper to consummate the settlement of this action;

NOW, THEREFORE, upon agreement of the parties, it is ORDERED, ADJUDICATED, and DECREED as follows:

1. Defendant GoldenMine.com, Inc. ("GoldenMine") and its agents, servants, employees, attorneys, successors, assigns, and all persons acting in concert or participation with it, are hereby ENJOINED from any and all uses of the trademarks HEARTS ON FIRE® and DREAM BY HEARTS ON FIRE® (collectively, the "Trademarks") as well as any confusingly similar designation, including, without limitation, by using any of the Trademarks in the visible

text, invisible text, source code, metatags, title, or file path of any web site, or by purchasing the right to have one or more links to any web site operated by or on behalf of GoldenMine listed in response to a search for any of the Trademarks.

2. GoldenMine and its agents, servants, employees, attorneys, successors, assigns, and all persons acting in concert or participation with it, are hereby ENJOINED from any and all uses of the phrases “find beautiful diamond jewelry to set your hearts and souls on fire” and “heartssoulsonfire” without regard for how such words are capitalized and/or spaced, including, without limitation, by using either phrase in the visible text, invisible text, source code, metatags, title, or file path of any web site, or by purchasing the right to have one or more links to any web site operated by or on behalf of GoldenMine listed in response to a search for either phrase.

3. GoldenMine and its agents, servants, employees, attorneys, successors, assigns, and all persons acting in concert or participation with it, are hereby ENJOINED from any use of the trademarks DREAM® or DREAM CUT®, as well as any confusingly similar designation, in reference to, or suggestive of, the brand or source of any diamonds or diamond jewelry, including, without limitation, by using either of those trademarks in the visible text, invisible text, source code, metatags, title, or file path of any web site, or by purchasing the right to have one or more links to any web site operated by or on behalf of GoldenMine listed in response to a search for either of the trademarks DREAM® or DREAM CUT®. GoldenMine is not otherwise enjoined from the normal textual usage of the words “dream” and/or “cut.”

4. For each person and/or entity who GoldenMine is currently aware has engaged and/or is engaging in any of the practices described in paragraphs 1, 2, and/or 3 on behalf of GoldenMine or who GoldenMine is currently aware has otherwise disseminated and/or is disseminating any advertising and/or promotional material on behalf of GoldenMine making any

use of the Trademarks (including, without limitation, all persons and/or entities who GoldenMine is currently aware have made any use of the Trademarks in connection with web sites containing links to any web site operated by or for GoldenMine), GoldenMine is ORDERED to take the following steps: (i) within ten business days following entry of this Order, serving upon Plaintiff Hearts On Fire Company, LLC's ("HOF") counsel a list of all such persons and/or entities (together with their addresses and any other contact information in GoldenMine's possession) with a certification under penalty of perjury that GoldenMine is not aware of any other such persons or entities, (ii) within ten business days following entry of this Order, sending each such person and/or entity as to whom GoldenMine is able to obtain contact information a written communication by certified or registered mail in the form attached hereto as Exhibit B and enclosing with such written communication a copy of this Order, and (iii) within five business days thereafter (or immediately following any subsequent receipt by GoldenMine), serving upon HOF's counsel copies of all such written communications with a certification under penalty of perjury that such communications were sent. Without limiting the generality of the previous sentence, GoldenMine is ORDERED to take the foregoing steps described in this Paragraph 4 with respect to the persons and/or entities responsible for placing any links to GoldenMine's web site on web pages made available through the domain name www.4-wedding-bands.com, including any file paths associated with such domain name, to the extent it is aware of the identities of such persons and is able to obtain contact information. With respect to the activities of persons and/or entities who are not officers, directors, employees, subsidiaries, parents, or affiliates of GoldenMine, GoldenMine shall completely discharge its obligations under this Order, by taking the foregoing steps described in this Paragraph 4, provided that GoldenMine

refrains from knowingly requesting any use of the Trademarks and/or other designations and/or phrases identified in paragraphs 1 through 3 by any such persons and/or entities.

5. In the event that HOF becomes aware any of the Trademarks and/or other designations and/or phrases identified in paragraphs 1 through 3 are displayed on any web site operated by or on behalf of GoldenMine in the form of a link to a web site available at another domain name or in any chat room or bulletin board available on any web site operated by or on behalf of GoldenMine, then prior to applying for relief from the Court, HOF shall provide written notice to GoldenMine, sent in accordance with Section 11 of the Settlement Agreement, specifying the nature of the alleged violation and providing GoldenMine with ten (10) business days to remove the item in question and provide a written explanation to HOF, sent in accordance with Section 11 of the Settlement Agreement, as to the origin of the items that are the subject of HOF's notice. In the event that the items are not removed in such time period, then HOF may apply to the Court for relief. The procedure set forth in this Paragraph 5 shall apply only to the practices specifically identified in the first sentence of this Paragraph 5.

6. Within fifteen business days following entry of this Order, GoldenMine is ORDERED to serve upon HOF's counsel a certification under penalty of perjury that there are no materials in the possession of GoldenMine containing any of the Trademarks or that such materials have been destroyed.

7. Except insofar as the parties have stipulated to the entry of the injunctive relief described herein, all claims are hereby dismissed with prejudice. Each party shall bear its own costs and attorneys' fees.

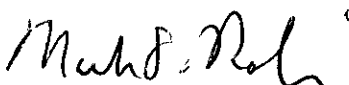
8. This Court shall retain continuing jurisdiction over the parties only for the purpose of entering enforcement orders and such other and further ancillary relief as may be proper in the circumstances.


HEARTS ON FIRE COMPANY, LLC

GOLDENMINE.COM, INC.

By its attorneys,

By its attorneys,



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Dated: September 15, 2004

SO ORDERED:

Dated: 9/23/04


United States District Court
District of Massachusetts

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail-hand on 9/15/04

